

**ASSAULT IN THE SECOND DEGREE  
(D Felony)  
(Assault of Student)  
PENAL LAW 120.05(10)(b)  
(Committed on or after November 1, 2000)**

The \_\_\_\_\_ count is Assault in the Second Degree

Under our law, a person is guilty of Assault in the Second Degree when acting at a place the person knows, or reasonably should know, is on school grounds and with intent to cause physical injury, he or she, not being a student of such school or public school district, causes physical injury to another, and such other person is a student of such school who is attending or present for educational purposes.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: "school grounds," "physical injury," and "intent."

**SCHOOL GROUNDS** means in or on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high, vocational, or high school, or any area accessible to the public located within one thousand feet of the real property boundary line comprising any such school [or any parked automobile or other parked vehicle located within one thousand feet of the real property boundary line comprising any such school]. An "area accessible to the public" means sidewalks, streets, parking lots, parks, playgrounds, stores and restaurants.<sup>1</sup>

**PHYSICAL INJURY** means impairment of physical condition or substantial pain.<sup>2</sup>

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<sup>1</sup> Penal Law § 220.00(14).

<sup>2</sup> Penal Law § 10.00(9); See *People v. Chiddick*, 8 NY3d 445 (2007).

INTENT means conscious objective or purpose. Thus, a person acts with intent to cause physical injury when that person's conscious objective or purpose is to do so.<sup>3</sup>

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, each of the following three elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), caused physical injury to (specify) who was a student of such school who was attending or present for educational purposes;
2. That the defendant did so with intent to cause physical injury to (specify); and
3. That the defendant did so on school grounds and the defendant knew or reasonably should have known he/she was on school grounds.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Assault in the Second Degree as charged in the \_\_\_\_\_ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of the crime of Assault in the Second Degree as charged in the \_\_\_\_\_ count.

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<sup>3</sup> See Penal Law § 15.05(1). If necessary, an expanded definition of "intent" is available in the section on Instructions of General Applicability under Culpable Mental States.